

1 **TERRY A. DAKE, LTD.**  
20 E. Thomas Rd.  
2 Suite 2200  
Phoenix, Arizona 85012-3133  
3 Telephone: (602) 710-1005  
tdake@cox.net  
4

5 **Terry A. Dake - 009656**

6 Attorney for Trustee

7 **IN THE UNITED STATES BANKRUPTCY COURT**

8 **FOR THE DISTRICT OF ARIZONA**

In re:	)	In Chapter 7 Proceedings
	)	
DANIEL ALLEN BORGES, JR.;	)	Case No. 2:17-BK-13925-BKM
	)	
Debtor.	)	
_____	)	
	)	
ROBERT A. MACKENZIE,	)	
TRUSTEE,	)	<b>Adversary No. 2:19-AP-xxxx</b>
	)	
Plaintiff,	)	
v.	)	
	)	
RANCHO SOLANO PRIVATE	)	
SCHOOLS, INC.;	)	
	)	
Defendants.	)	
_____	)	

18 **C O M P L A I N T**

19 Robert A. MacKenzie ("MacKenzie"), as trustee of the  
20 bankruptcy estate of Daniel Allen Borges, Jr., Bankruptcy Case No. 2:17-  
21 BK-13925-BKM, for his Complaint, says as follows:

22 1. MacKenzie is the duly appointed trustee of the bankruptcy  
23 estate of Daniel Allen Borges, Jr., Bankruptcy Case No. 2:17-BK-13925-  
24 BKM.

25 2. This Court has jurisdiction of this matter pursuant to 28  
26 U.S.C. §157(b) (2). This is a core proceeding.

27 3. This bankruptcy case was filed as a voluntary Chapter 7  
28 proceeding on November 22, 2017.

4. Rancho Solano Private Schools, Inc. ("Rancho Solano") is a corporation doing business in Maricopa County, Arizona.

5. Daniel Allen Borges, Jr. is the debtor in this case and Kimberly D. Borges (collectively "Borges") is the spouse of Daniel Allen Borges, Jr. The acts and omissions complained of herein were for and on behalf of the marital community of the Borges.

6. After the bankruptcy filing, Borges transferred \$9,256.18 to Rancho Solano to pay private school tuition for their son. The \$9,256.18 was property of the bankruptcy estate.

7. While Borges has subsequently repaid to the trustee part of the money that was transferred to Rancho Solano, \$4,610.72 has not been repaid.

8. This transfer to Rancho Solano is avoidable by the trustee pursuant to 11 U.S.C. §549.

9. Rancho Solano is liable as the initial transferee of this transfer pursuant to 11 U.S.C. §550(a)(1).

10. Despite demand, Rancho Solano has failed to repay these funds to the trustee.

11. To the extent that Rancho Solano contends that this is a valid post-petition transfers of estate property, Rancho Solano bears the burden of establishing the validity of this post-petition transfer. Bankruptcy Rule 6001.

**WHEREFORE,** the trustee prays as follows:

A. For the entry of a judgment avoiding the transfer of the \$9,256.18 to Rancho Solano pursuant to 11 U.S.C. §549.

1 B. For a money judgement against Rancho Solano in an amount  
2 not less than \$4,610.72 pursuant to 11 U.S.C. §550(a)(1).

3 C. For an award of the trustee's costs. In the event of  
4 default, the trustee will request costs of \$350.00.

5 D. For interest on all amounts at the federal district court  
6 judgment rate from the date of judgment until paid in full.

7 DATED November 18, 2019.

8 **TERRY A. DAKE, LTD.**

9  
10 By /s/ TD009656

11 Terry A. Dake - 009656  
12 20 E. Thomas Rd.  
13 Suite 2200  
14 Phoenix, Arizona 85012-3133  
15 Attorney for Trustee  
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